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APPLICATION NO.	FILING DATE	FIRST-NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,455	12/30/2003	Jeffrey D. Lindsay	KCX-733 (19668)	2370
22827 7590 01/25/2008 DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER MEHMOOD, JENNIFER	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/748,455	Applicant(s) SOX ET AL.	
	Examiner Jennifer A. Mehmood	Art Unit 2612	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 15, 16, 22, 25, 26, 32-35 and 37-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 15, 16, 22, 25, 26, 32-35, and 37-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

*Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 38-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Phipps (US 6,579,231).

Phipps discloses a body and environment monitoring system comprising: at least one bio-sensor associated with a body and configured to generate sensor-data for at least one body-parameter (col 3, lns 44-65; Fig. 1, items 12, 14, and 16); at least one electronic tag scanning device associated with said body and configured to receive electronic tag transmissions comprising environmental-data (col 3, lns 66, 67; col 4, ln 1) stored in electronic tags associated with items in an environment, said stored environmental data relating to a static characteristic (col 6, lns 17-23 and 61-63; col 7, lns 18-21) of the associated item that is relevant to interpretation of the bio-sensor data (home address and current coordinates stored in memory for a predetermined time period or at fixed intervals of time); a first computer associated with said body and in communication with said at least one bio-sensor and said at least one electronic tag scanning device (col 3, lns 61-62); said first computer configured to receive said sensor-data and said environmental-data (Fig. 3, items 60, 16); and a memory in communication with said first

computer wherein said memory is configured to store said sensor-data and said environmental-data (Fig. 4, items 68, 70, 76, 78).

For claim 38, Phipps discloses said first computer further configured to generate treatment-signals and to transmit said treatment- signals to a treatment control system when said first computer determines that a body-parameter meets predefined treatment-criteria (col 5, lns 12-35; Fig. 5); and said first computer further configured to automatically determine the proper treatment-signal format based at least in part on at least one of said environmental- data and treatment-control-system-information retrieved from said treatment control system (col 6, lns 15-37).

For claim 39, Phipps discloses said treatment control system is at least one of a pharmaceutical treatment control system and a therapeutic treatment control system (col 5, lns 12-35; Fig. 5; col 6, lns 15-37).

For claim 40, Phipps discloses said treatment-signal is transmitted over at least one of a wired or wireless communication link (col 5, lns 12-20; Fig. 5).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al. (US 6,198,394), and further in view of Seroussi et al. (US 6,836,843).

For claim 1, Jacobsen discloses a body and environment monitoring system comprising: at least one bio-sensor associated with a body and configured to generate sensor-data related to at least one body-parameter (col 6, lns 1-5 and 21-37; Fig. 1, items 22, 24, 26, and 30); a first computer in communication with said at least one bio-sensor and configured to retrieve sensor-data from said at least one bio-sensor (col 5, lns 41-50; col 11, lns 51-67; col 12, lns 28-44; Fig. 5 and 5A, item 330); at least one electronic tag scanning device configured to retrieve environmental-data stored in electronic tags associated with items in an environment wherein said at least one electronic tag scanning device is one of (a) adapted to be mounted on said body, (b) adapted to be attached to said body and (c) adapted to be carried by said body, said stored environmental data relating to a static characteristic (col 8, lns 51-64; col 12, lns 40-50; col 13, lns 1-9) of the associated item that is relevant to interpretation of the bio-sensor data and memory for storing at least one of said sensor-data and said environmental-data (col 11, lns 28-45; Fig. 4A, items 300, 304, 306, 312). Jacobsen, however, does not disclose that the memory is at least one of a volatile and a non-volatile memory. Seroussi, on the other hand, does disclose a memory that is volatile and non-volatile (Fig. 2, items 32, 33; col 3, lns 35, 36; col 4, lns 37-46). It would have been obvious to one of ordinary skill in the art, at the time the invention was made to disclose non-volatile and volatile memory so that data storage is either permanent or erasable, depending on a user's requirements.

For claim 2, Jacobsen discloses said environmental-data is at least one member from the group consisting of: (1) EMI Code; (2) item identification number; (3) item model number; (4)

warning code; (5) room code; (6) floor code; (7) building code; (8) vehicle code; (9) meal code and (10) nutrition code (col 10, lns 1-14). The units are provided an item identification number.

For claim 3, Jacobsen discloses said first computer is configured to generate at least one of therapeutic treatment-signals and pharmaceutical treatment-signals when a monitored body-parameter meets predefined treatment-criteria (col 10, lns 15-44).

For claim 4, Jacobsen discloses said at least one electronic tag scanning device is further configured to communicate with said first computer and to transfer at least part of said environmental-data to said first computer; and wherein said first computer is further configured to automatically determine the proper treatment-signal format using at least part of said environmental-data received from an electronic tag associated with a treatment- control system (col 9, lns 58-67; col 10, lns 15-46).

For claim 15, Jacobsen discloses said body is a human body (Fig. 1).

For claim 16, Jacobsen discloses said at least one body-parameter is at least one member from the group consisting of: (1) body temperature; (2) blood pressure; (3) heart rate; (4) blood sugar level; (5) blood oxygen level; (6) cholesterol level; (7) respiration rate; (8) hormone level; (9) galvanic skin response; (10) EMG; (11) EEG; (12) EOG; (13) body fat; (14) hydration level (15) activity level; (16) body position; (17) UV radiation exposure; and (18) UV radiation absorption (col 6, lns 22-37).

5. Claim 22, 25, 26, and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phipps (US 6,579,231), and further in view of Traxler (US 5,689,240).

For claim 22, Phipps discloses a monitoring system comprising: at least one electronic tag scanning device configured to transmit an electronic tag trigger signal and to receive

electronic tag transmissions (col 4, lns 6-27; Fig. 1, items 26, 12, 22); a first computer in communication with at least one electronic tag scanning device and configured to use said at least one electronic tag scanning device to retrieve environmental-data stored in electronic tags associated with items within an environment (col 3, lns 32-42, 66, 67; col 6, lns 15-22; Fig. 3, item 60); memory in communication with said first computer wherein said memory is at least one of a volatile memory and a non-volatile memory (col 6, lns 1-6); wherein said first computer stores retrieved environmental-data in said memory (Fig. 4, item 54); and wherein said first computer and said at least one electronic tag scanning device is at least one of (a) mounted on a body, (b) attached to a body, and (c) carried by a body (col 3, lns 44-56; Fig. 5); and at least one bio-sensor associated with a body and configured to generate sensor-data for at least one body-parameter, said first computer (col 3, lns 44-65; col 4, lns 6-9; Figs. 3 and 4, item 54) is in communication with said at least one bio-sensor and configured to retrieve sensor-data from said at least one bio-sensor and to store said sensor-data in said memory, said stored environmental data relating to a static characteristic (col 6, lns 17-23 and 61-63; col 7, lns 18-21) of the associated item that is relevant to interpretation of the bio-sensor data. However, Phipps does not disclose wherein said first computer is further configured to use said at least one electronic tag scanning device to transmit an electronic tag trigger signal when a predefined amount of time elapses without a valid electronic tag transmission being received containing valid environmental-data. Traxler, on the other hand, discloses first computer is further configured to use said at least one electronic tag scanning device to transmit an electronic tag trigger signal when a predefined amount of time elapses without a valid electronic tag transmission being received containing valid environmental-data (col 1, lns 5-7; col 2, lns 34-46; col 5, lns 11-30).

It would have been obvious to include transmitting an electronic tag trigger signal when a predefined amount of time elapses without a valid electronic tag transmission being received containing valid environmental-data to issue an alert about a preset distance violation.

For claim 25, Phipps discloses said first computer is in communication with a remote computer (col 4, lns 36-47; Fig. 1, item 18).

For claim 26, Phipps discloses said first computer is further configured to use said at least one electronic tag scanning device to transmit an electronic tag trigger signal according to transmit-criteria where said transmit-criteria is at least one member from the group consisting of: (1) periodically at set intervals; (2) periodically at random intervals; (3) upon manual request by a user; and (4) automatic request issued by said remote computer (col 4, lns 6-22 and 33-39).

For claim 32, Phipps discloses said first computer is configured to automatically transmit treatment-signals when a monitored body-parameter meets predefined treatment-criteria (col 5, lns 12-20 and 28-35).

For claim 33, Phipps discloses said first computer is further configured to automatically format said treatment-signals based on environmental-data retrieved from electronic tags associated with a treatment control system near said body (col 5, lns 12-20 and 28-35; col 8, lns 17-30; Fig. 4, items 70, 72, 76 and 78).

For claim 34, Phipps discloses said first computer is further configured to accumulate reference data and wherein said display is further configured to display at least one of said reference data, said environmental-data, real-time sensor-data, near real-time sensor-data, processed sensor-data and unprocessed sensor-data (col 5, lns 23-35; Fig 2, item 40).



For claim 35, Phipps discloses said sensor data is transmitted to a remote computer (Fig. 1, item 18; col 4, lns 24-29, 27-43).

6. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Phipps (US 6,579,231), and further in view of Lye et al. (US 2004/0100376).

Phipps discloses an electronic scanning device, but not an RFID STR and wherein said electronic tag is an RFID smart tag. However, Lye discloses an RFID STR and an RFID smart tag (paragraph 0058). It would have been obvious to include an RFID system of an RFID reader and an RFID tag to facilitate short range communication between the reader and the tag in order to avoid interference with other RF devices in close proximity to the RFID devices.

### ***Response to Remarks***

7. Applicant's arguments filed December 6, 2007 have been read and fully considered but they are not persuasive.

The Applicant argues as follows:

For claim 1 (remarks pages 12-14), Jacobsen does not incorporate an electronic tag that stores environmental data related to a static characteristic of the associated item to which the tag is attached. Humidity and temperature are not static conditions of the environment, and do not constitute static data that is pre-written into the electronic tags. The system of Jacobsen '394 does not teach or suggest of an electronic tag scanning device that retrieves the stored, static environmental data from passive electronic tags that are externally triggered by the tag scanning device.

For claims 22 and 37 (see remarks pages 14-17), Phipps does not disclose a system wherein environmental data electronically stored in a tag device is retrieved by an electronic tag scanning device emitting a trigger signal that causes the tag to transmit a static characteristic of an item in the environment to which the electronic tag is attached or otherwise associated.

The Examiner responds as follows:

First of all, the Examiner cannot find a concrete definition of "static" in the specification, but will use an example of the loose interpretation of "static" in the Applicant's remarks on page 12, such as "detecting and recording environmental data relating to the time and location of the patient when the readings were taken". Secondly, alluding to the specification, the Applicant further exemplifies a situation that is "static": **"However, environment-data would likely indicate that a person's location has remained fixed for a prolonged period of time.** For example, should a person's environmental-data indicate that the person is near an automobile in a garage outside a house, and such **location has remained constant for a predefined period of time**, such environment-data may suggest an injury. For such an example, the BREM-alert-criteria **may be the amount of time a person's location remains substantially constant"**.

Jacobsen discloses electronic tags that are externally triggered by the tag scanning device (col 7, lns 4-12). In addition, Jacobsen does disclose time and geolocation of a soldier transmitted on an as needed basis. Like the Applicant's disclosure of a person's location which is an example of a static characteristic relating to a bio sensor, Jacobsen provides several static characteristics such as a time and geolocation of a soldier (col 6, lns 40-42; col 14, lns 50-54). Moreover, Jacobsen discloses a soldier's location over a prolonged period of time – whether the soldier is dead or alive (col 13, lns 1-9). Furthermore, while the Applicant believes that

temperature is not a static condition of an environment, Jacobsen monitors the condition of a soldier's body temperature to assess the risk of hypothermia, which is directly related to the temperature of an environment over a prolonged period of time (col 8, lns 51-62; col 12, lns 40-50). Since hypothermia is the body reacting to being exposed to a cold temperature over a prolonged period of time, Jacobsen discloses storing a characteristic (temperature of body dependent on ambient/environment temperature) of static data into the electronic tags.

Phipps discloses that not only GPS coordinates are written at predetermined intervals and are stored for a predetermined period of time, but also personal information such as a patient's home address is stored in a tag device and transmitted on an as needed basis. Like the Applicant's disclosure of a person's location is an example of a static characteristic relating to a bio sensor, Phipps provides two examples of static characteristics such as a specific (home) address and GPS coordinates which provides a patient's accurate location to a call center (col 4, lns 58-62).

Therefore, for the above reasons, both Jacobsen and Phipps disclose systems wherein environmental data electronically stored in a tag device is retrieved by an electronic tag scanning device emitting a trigger signal that causes the tag to transmit a static characteristic of an item in the environment to which the electronic tag is attached or otherwise associated.

### *Conclusion*

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). See MPEP § 706.07(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Mehmood whose telephone number is (571) 272.2976. The examiner can normally be reached on M-F from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Daniel Wu, can be reached at (571) 272.2964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer A. Mehmood  
January 13, 2008

  
**BENJAMIN S. LEE**  
PRIMARY EXAMINER